IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.46 OF 1997

The Commissioner)
Kolhapur Municipal Corporation)
Kolhapur.).. PETITIONER

VERSUS

1) Mahanagar Palika Karmachari Sanghn)
2023 "C" Ward, Somwar Peth, i)
Opposite K.M.C. Kolhapur through)
its General Secretary.)

3) Member, Industrial Court, ,)
Kolhapur.).. RESPONDENTS

Ms.Snehal M.Paranjape with Mr.S.M.Kamble for the Petitioner.

None present for Respondent No.1.

Respondent No.2 formal party.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 31ST MARCH 2005

ORAL JUDGMENT :

. The Petition challenges an order passed by the Member, Industrial Court, Kolhapur in Complaint (ULP) No.174 of 1995 on 30th October 1996. A Complaint was filed by the first Respondent under Section 28 read with Items 2(a), (b) and 5 of Schedule II and Items 9 and 10 of Schedule IV of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 (hereinafter referred to as "the Act"). The case

made out in the Complaint was that the Petitioner Corporation had unilaterally stopped deducting membership subscription from the wages of the employees which practice was in vogue for a long period of time. After such deductions were made by the Petitioner, the amount was remitted to the first Respondent Union by cheque. Such deductions were made only from the wages of those employees who had authorised the Petitioner Corporation in writing. The first Respondent aggrieved by the decision of the Petitioner to stop this practice filed Complaint (ULP) No.174 of 1999. After the pleadings were complete, the parties did not lead any oral evidence at all. The Complaint was decided by the Industrial Court by coming to the conclusion that there was no unfair labour practice committed either under Schedule II or under Schedule IV of the Act as there was no evidence in that behalf. However, instead of dismissing the Complaint, since no unfair labour practice had been committed by the Petitioner, the Industrial Court passed certain directions. These directions were to the effect that the Respondent Union should submit written authorisation of the employees for collection of the membership subscription from the wages at quarterly intervals. Such written authorisation should be acted upon by the Petitioner and deductions should be made from the wages of the concerned employees. Aggrieved by the decision of the Industrial

Court, the Petitioner Corporation has filed the present Writ Petition.

2. Ms.Paranjape, the learned Counsel for the Petitioner, submits that the Industrial Court having concluded that no unfair labour practice has been committed, could not have issued any further directions regarding collection of membership subscription. She submits that under Section 20 of the Act, a trade union can exercise its rights and collect membership subscription on the premises of the establishment. This specific right having been accorded to the recognised Union, it was open for the first Respondent which admittedly is a recognised Union to exercise the same. She submits that the Petitioner has no objection to the first Respondent Union collecting the subscription in accordance with Section 20(1)(a) of the Act.

3. The submissions made by the learned Counsel for the Petitioner seem to be well founded. The Industrial Court having held that no unfair labour practice has been committed, ought not have passed any further directions regarding collection of membership subscription. The provisions of Section 20(1)(a) of the Act permit a recognised union to collect subscription on the premises of the employer. The recognised Union and the Management can agree to such deductions in respect

of the membership subscription in a given case. However, this agreement can be acted upon provided the workmen also agree to the same. However, there can be no compulsion on the Management to make such deductions. The Union cannot as a matter of right demand that such deductions be made by the Management. In the present case, the Industrial Court has found that there was no evidence to substantiate the case made out by the Union in the Complaint that there was a long standing practice of collecting the subscription which had become part of the service conditions of the employees. Having arrived at this conclusion, the Industrial Court was in error in giving further directions to the Petitioner Corporation to make deductions from the wages of the employees by way of membership subscription.

4. In view of the above, the impugned order dated 30th October 1996 passed by the Member, Industrial Court, Kolhapur in Complaint (ULP) No.174 of 1995 is set aside. Writ Petition allowed. Rule made absolute accordingly. No order as to costs.